

## **REMARKS**

In response to the above-identified Office Action, Applicants amend the application and seek reconsideration thereof. In this response, no claims have been cancelled, four claims have been added and seven claims have been amended. Accordingly, Claims 1-22 are pending.

### **Claims Rejected Under 35 U.S.C. §102**

The Examiner has rejected claims 1, 2 and 5 under 35 U.S.C. §102 as being anticipated by Chlestil, U.S. Patent No. 4,302,097 ("Chlestil"). Applicants respectfully traverse this rejection.

First, with respect to Claim 1, Applicants respectfully submit that Chlestil fails to teach or suggest deriving a first three-dimensional representation and creating a second three-dimensional representation as claimed by Applicant. In fact, the only three-dimensional representation created by Chlestil is the physical object tooled from the blank or workpiece, such as a block of metal or other machinable material. Thus, Chlestil does not disclose the creation of two three-dimensional representations. Moreover, since the only three-dimensional representation Chlestil discloses is a solid model tooled from the blank or workpiece of metal other machinable material, Applicants have further differentiated its claim by making clear that the representations claimed to be derived and created are digital.

Regarding Claim 2, Applicants have amended Claim 2 to reflect that the elements of the first and second three-dimensional representation are automatically combined. As noted above, it is respectfully submitted that Chlestil fails to teach or suggest two distinct three-dimensional representations in the first instance. In any

event, there is also no teaching or suggestion of automatic combination of elements from two distinct three-dimensional digital representations. Claim 5 is patentable for analogous reasons.

In view of the foregoing, it is respectfully requested that the rejection under 35 U.S.C. §102 be withdrawn.

### **Claims Rejected Under 35 U.S.C. §103**

The Examiner has rejected Claim 6, 8-10, 15 and 16 under 35 U.S.C. §103 as being unpatentable over Chlestil. Applicants respectfully traverses this rejection.

With respect to Claim 6, the Examiner asserts that the contour line method is active ranging and the silhouette method is passive imaging. Applicants respectfully submit that while traditional profilometry is a passive approach, both approaches practiced by Chlestil are in fact active. The contour line, as the Examiner accurately notes, is generally considered an active ranging technique. Additionally, where as here projector is used to illuminate the target and the shadow captured off from a ground glass plate on the back side would also be deemed an active approach by those of ordinary skill in the art. Thus, even leaving aside the issues raised in connection with the independent claim from which Claim 6 depends, Chlestil fails to teach or suggest use of a passive imaging technique, rather it teaches to active methods. Analogous arguments apply to Claim 10.

With respect to Claim 8, Applicants respectfully submits that Chlestil fails to teach or suggest a digitizer capable of using at least two capture methods to capture three-dimensional additional representation of at least a portion of an object. As acknowledged by the Examiner, Chlestil does not teach a digitizer at all. As submitted

by the Applicants, Chlestil fails to teach or suggest capture of a three-dimensional digital representation of at least a portion of an object. To the extent that Chlestil teaches a three-dimensional representation at all, the representation is the solid form model created by tooling the blank or workpiece discussed above. Since Chlestil is directed to the production of a solid model, the preparation of a digital representation by either of two methods is neither taught nor suggested by Chlestil.

With respect to Claim 9, Applicants have amended Claim 9 to reflect that the elements are automatically combined between the first and second digital representations. The notion of automatic combination of elements from plural three-dimensional digital representations is wholly absent in Chlestil. Thus, Claim 9 is independently patentable. The remaining claims are at least patentable as being dependent on patentable independent claims. Accordingly, it is respectfully requested that the rejections under 35 U.S.C. §103 be withdrawn.

#### **Allowable Subject Matter**

Applicants note with appreciation the Examiner's indication that Claims 3, 4, 7, 11-14, 17 and 18 contain allowable subject matter.

#### **CONCLUSION**

In view of the foregoing, it is believed that all claims now pending are in condition for allowance and such action is earnestly solicited at the earliest possible date. If there are any additional fees due in connection with the filings of this response, please

charge those fees to our Deposit Account No. 02-2666. Questions regarding this matter should be directed to the undersigned at (310) 207-3800.

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**CERTIFICATE OF MAILING**

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail with sufficient postage in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on November 22, 2004.

Susan M. Barrette 11/22/2004  
Susan M. Barrette Date